

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5760

PETITION OF WILLIAM D. MOHR

(Hearing held June 5, 2002)

OPINION OF THE BOARD

(Effective date of Opinion, July 5, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for variances from Sections 59-C-1.323(a) and 59-B-3.1. The petitioner proposes to construct a one-story addition that requires a 3.85 foot variance as it is within 36.15 feet of the front lot line and a covered porch that requires a 5.85 foot variance as it is within 31.15 feet of the front lot line. The required front lot line setback for the one-story addition is forty (40) feet and the required front lot line setback for the covered porch is thirty-seven (37) feet.

McCain McMurray, an architect, appeared with the petitioners at the public hearing.

The subject property is Lot 48, Block E, Lake Normandy Estates Subdivision, located at 6 Cherbourg Court, Potomac, Maryland, in the R-200 Zone (Tax Account No. 881075).

Decision of the Board: Requested variances **denied**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct 31.0 x 10.25 foot one-story addition and a covered porch.
2. The petitioner testified that the area at the front of their home is recessed and that the proposed construction would be located in this area. The property is located on a cul-de-sac. The petitioner testified that his lot is located at the start of the curve of the cul-de-sac and that this reduces the front yard of his property.
3. The petitioner testified that his lot is shallower than the other lots on the cul-de-sac and that the area devoted to the cul-de-sac's right-of-way denies him use of a significant portion of his lot.

FINDINGS OF THE BOARD

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variances must be denied. The requested variances do not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioner's lot has no exceptional topographical or other conditions that are not shared by the adjoining and neighboring properties. The Board further finds that the shape and size of the petitioner's property are not exceptional and are similar to that of other lots on the cul-de-sac. See, Exhibit No. 15 (subdivision map).

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements set forth in that section for the grant of a variance. Accordingly, the requested variances of 3.85 feet from the required forty (40) foot front lot lines setback for the construction of a one-story addition and of 5.85 feet from the required thirty-seven (37) foot front lot line setback for the construction of a covered porch are denied.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Louise L. Mayer, seconded by Donna L. Barron, with Angelo M. Caputo, Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 5th day of July, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-

4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.